DUCKOR SPRADLING METZGER & WYNNE
A LAW CORPORATION

3043 4th AVENUE
SAN DIEGO, CALIFORNIA 92103
TELEPHONE (619) 209-3000
FACSIMILE (619) 209-3043
www.dsmwlaw.com

GARY J. SPRADLING
SCOTT L. METZGER
JOHN C. WYNNE
BERNARD L. KLEINKE‡
LI-AN C. LEONARD
K. JILL OSMARS
KEVIN M. BAGLEY*
ANNA F. ROPPO
MICHAEL A. REED
ROBERT M. SHAUGHNESSY
BRYN C. SPRADLING
GEOFFREY C. CHACKEL
KEVIN L. WHEELER
DOUGLAS W. LYTLE
SCOTT M. LOHNES**‡
ANNETTE C. CLARK
ADRIAN R. CYHAN‡
ROSE M. HUELSKAMP
LAURA E. PEREIRA‡
STEVEN W. BLAKE
EDWIN M. BONISKE
**ADMITTED IN INDIANA ONLY
*CERTIFIED SPECIALIST, TAXATION LAW STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION
‡REGISTERED PATENT ATTORNEY
MICHAEL DUCKOR - Retired 2009

June 9, 2010

Via ECF
Magistrate Judge E. Thomas Boyle
United States District Court for the Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: ***Next Proteins, Inc. v. Distinct Beverages, Inc., et al.***
Case No. 09-cv-4534 (DRH) (ETB)

Your Honor:

This firm represents Plaintiff Next Proteins, Inc. in the above-referenced matter. The parties submit this joint request for certain amendments to the schedule in the above-referenced case. This is the first requested amendment to this Court's March 12, 2010 scheduling order.

The parties, and their lead counsel, appeared at a Settlement Conference before Your Honor on April 29, 2010 at 2:00 p.m. Although no agreement was reached at the conference, settlement discussions have continued between the parties since that time. To allow sufficient time for the parties to explore potential business solutions to this dispute, the parties have agreed to postpone discovery in this action for a period of 90 days. To accommodate this agreement, the parties jointly request that this Court modify the Scheduling Order and extend certain deadlines as follows:

Event	**Revised Deadline**
Deadline to file motions to amend pleadings, including joinder of additional parties	November 29, 2010
Deadline to seek approval to file any motion for summary judgment	June 13, 2011
Deadline to complete fact discovery	May 11, 2011
Deadline to complete expert discovery	July 11, 2011
Deadline to submit pre-trial order	August 15, 2011

Attached hereto as Exhibit A is a Stipulation and [Proposed] Revised Scheduling Order granting these requested changes. The parties are available to discuss these matters at Your Honor's convenience.

Respectfully Submitted,

DUCKOR SPRADLING METZGER & WYNNE
A Law Corporation

By: ______________________
John C. Wynne

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK X

NEXT PROTEINS, INC., a California corporation,

Plaintiff,

-against-

DISTINCT BEVERAGES, INC., a New York corporation; JAKE S. TOWNSON, an individual; NICK WOODHEAD, an individual; USA SPORTS SUPPLEMENTS, INC., a New York corporation; and DOES 1-20, inclusive,

Defendants.

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ECF CASE: 09-CV-4534 DRH ETB

STIPULATION AND [PROPOSED] REVISED SCHEDULING ORDER

The parties, through their counsel of record in this case, agree to enter into the stipulation set forth below, based upon the following facts:

A. The parties, and their lead counsel, appeared at a Settlement Conference before Magistrate Judge E. Thomas Boyle on April 29, 2010 at 2:00 p.m.

B. Although no agreement was reached at the Settlement Conference, the parties have engaged in productive settlement discussions since that time.

C. The parties agree that it would be beneficial to postpone and suspend discovery in this case while they explore potential business solutions to their dispute. To that end, the parties have agreed to postpone and suspend discovery for a period of 90 days to explore settlement options and attempt to resolve this lawsuit outside of court.

D. This Court's March 12, 2010 Scheduling Order sets, among other things, the deadline to file motions to amend pleadings on August 30, 2010, and requires that all fact discovery be completed by February 10, 2011. Given the parties agreement to suspend discovery for settlement purposes for a 90-day period, the parties agree that these dates, among others in this Court's March 12, 2010 Scheduling Order, are not feasible. Accordingly, the parties desire to extend certain deadlines set in the Scheduling Order for 90 days.

E. The parties believe that it would serve judicial economy and the efficient conduct of this litigation if the March 12, 2010 Scheduling Order is revised to accommodate the 90-day delay, as the parties would be able to avoid unnecessary discovery and motion practice while the parties explore settlement possibilities.

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs NEXT PROTEINS, INC. and Defendants DISTINCT BEVERAGES, INC., JAKE S. TOWNSON, NICK WOODHEAD, and USA SPORTS SUPPLEMENTS as follows:

1. That the March 12, 2010 Scheduling Order be modified as follows:

a. The deadline to file motions to amend pleadings, including joinder of additional parties is November 29, 2010.

b. The deadline to seek approval to file any motion for summary judgment is June 13, 2011.

c. The deadline to complete fact discovery is May 11, 2011.

d. The deadline to complete expert discovery is July 11, 2011.

e. The deadline to submit a pre-trial order is August 15, 2011.

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Respectfully submitted,

DATED: June 9, 2010

John C. Wynne (*pro hac vice*)
DUCKOR SPRADLING METZGER & WYNNE
3043 4th Avenue
San Diego, California 92103
Tel: (619) 209-3000
Fax: (619) 209-3043
wynne@dsmwlaw.com

Counsel for Plaintiff NEXT PROTEINS, INC.

DATED: June 9, 2010

Richard D. Rochford (RR-4696)
Michael F. Orman (MO-2318)
NIXON PEABODY LLP
1100 Clinton Square
Rochester, NY 14604
Tel: (585) 263-1000
Fax: (585) 263-1600
morman@nixonpeabody.com

Counsel for Defendants DISTINCT BEVERAGES, INC., JAKE S. TOWNSON, NICK WOODHEAD, and USA SPORTS SUPPLEMENTS, INC.

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ORDER

Having read the stipulation of the Parties, and good cause appearing therefore,

IT IS HEREBY ORDERED:

That the March 12, 2010 Scheduling Order be modified as follows:

a. The deadline to file motions to amend pleadings, including joinder of additional parties is November 29, 2010.

b. The deadline to seek approval to file any motion for summary judgment is June 13, 2011.

c. The deadline to complete fact discovery is May 11, 2011.

d. The deadline to complete expert discovery is July 11, 2011.

e. The deadline to submit a pre-trial order is August 15, 2011.

Dated: ____________________, 2010

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Hon. E. Thomas Boyle
UNITED STATES DISTRICT COURT